

ENTERED

August 19, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

CARTIUS LYRONE MONTGOMERY	§	
	§	
	§	
VS.	§	MISC. ACTION NO. M-18-988
	§	
LORIE DAVIS	§	

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is Petitioner Cartius Lyrone Montgomery's Application to Proceed In Forma Pauperis, which had been referred to the Magistrate Court for a report and recommendation. On July 16, 2020, the Magistrate Court issued the Report and Recommendation, recommending that Petitioner's application to proceed in forma pauperis be denied, and that Petitioner be given an additional thirty (30) days to pay the required \$5 filing fee. The time for filing objections has passed and no objections have been filed. However, Petitioner has once again filed a request to proceed in forma pauperis but has provided no new documentation. As set out in the Report and Recommendation, Petitioner has, during the more than two years his case has been pending, had funds to pay the \$5.00 minimal filing fee.

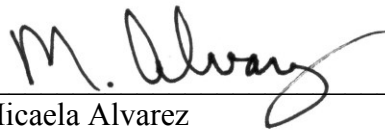
Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.¹ Finding no clear error, the Court adopts the

¹ As noted by the Fifth Circuit, "[t]he advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" Douglas v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1420 (5th Cir. 1996) (quoting Fed. R. Civ. P. 72(b) advisory committee's note (1983)) superceded by statute on other grounds by 28 U.S.C. § 636(b)(1), as stated in ACS Recovery Servs., Inc. v. Griffin, No. 11-40446, 2012 WL 1071216, at *7 n.5 (5th Cir. Apr. 2, 2012).

Report and Recommendation in its entirety. Accordingly, it is hereby **ORDERED** that Petitioner's Application to Proceed In Forma Pauperis is **DENIED**, and Petitioner shall within thirty (30) days pay the required \$5.00 filing fee for this action. Failure to timely submit the \$5.00 filing fee will result in dismissal of this action in its entirety.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 18th day of August, 2020.



Micaela Alvarez
United States District Judge